

presiding over the U.S. Senate—a privileged and important duty. Since the 1960's, senators who preside for 100 hours have been recognized with this coveted award.

On behalf of the Senate, I extend our sincere appreciation to Senator SMITH for presiding during the 106th Congress.

#### REMEMBERING SENATOR PAUL COVERDELL

Mr. JOHNSON. Mr. President, I rise today to add my condolences to that of my colleagues on the passing of our friend and colleague, Senator Paul Coverdell of Georgia.

Senator Coverdell was a model of proper conduct and decorum becoming of a Senator. He conducted himself in the quiet, deliberative manner that reflected his commitment to a thorough performance of his duties. He was a true leader, willing to do his best for all Americans.

Most recently, he and I worked together to keep our nation's promise to provide health care coverage to military retirees, when we introduced legislation together earlier this year. As my colleagues know, Senator Coverdell had extreme pride in this country. It was an honor to work with him on making good to those people who have served their nation and are now in the years of declining health. It was also an honor to work with Senator Coverdell every day, for he was truly interested in ensuring our democracy remained strong and pushed forward confidently into the Twenty-first Century.

Mr. President, I wish to extend my condolences to the Coverdell family, including his many friends and his staff. The entire Senate family has lost a friend and the nation has lost a leader. However, we are all enriched by having known such an honorable man. His service and commitment will have a definite and lasting legacy.

#### DEPARTMENT OF INTERIOR APPROPRIATIONS

##### INDIAN TRIBAL SELF-GOVERNANCE REGULATIONS

Mr. MCCAIN. Mr. President, I rise to engage several of my colleagues in a colloquy about some regulations which the Department of the Interior is preparing to issue in final form. These regulations would govern the federal and tribal administration of the Tribal Self-Governance program. I understand there is strong opposition from American Indian and Alaska Native groups to a handful of the proposed provisions.

Mr. CAMPBELL. Mr. President, the Senator from Arizona is correct. The Committee on Indian Affairs has received a series of communications from Native American tribes and tribal organizations indicating their opposition to eight of the hundreds of proposed provisions. These eight "impasse" issues appear to involve particularly

sensitive matters which the Indian tribes believe would seriously set back the advances these tribes have made in the field of tribal self-governance during the past decade.

Mr. MCCAIN. I share the concerns raised by the Indian tribes, and would note that in 1994 when we enacted the Tribal Self-Governance Act, the Congress expressly authorized the tribal self-governance effort to go forward without regulations. At the same time, we required the Department to engage in a negotiated rulemaking with tribal government representatives to develop mutually acceptable rules. Now it appears that this effort has been largely successful. There are hundreds of provisions that have been developed and mutually accepted by the tribal and federal representatives. These should be permitted to go forward. But as to the eight or so provisions upon which there is a negotiation impasse, I believe it would be contrary to the intent of the 1994 Act and to the negotiated rulemaking process to impose objectionable provisions upon the Indian tribes.

Mr. INOUE. I concur in the views of my colleagues, and add that the 1994 Act has been implemented without the benefit of any regulations for the past six years. Accordingly, I can imagine no undue hardship would come to the Department if the final regulations are silent as to eight of the hundreds of issues addressed in the draft regulations. As to these eight so-called "impasse" issues, I would encourage the Department to simply not issue any regulatory provisions that touch upon these objectionable issues. As I understand it, the ninety-five percent of the remaining regulations that deal with other issues are acceptable to the Indian tribes. The Department should publish those as final and withhold from publication of the eight provisions that are objectionable. I would inquire of the Chairman of the Committee on Indian Affairs as to the nature of the eight objectionable provisions.

Mr. CAMPBELL. The tribal representatives have provided the Committee with a list of eight issues. They have asked the Department to agree to not publish any regulatory provision which: limits the reallocation authority of a Self-Governance Tribe/consortium by requiring that reallocation of funds may only be between programs in annual funding agreements; limits the local decision-making of a Self-Governance Tribe/consortium by requiring that funds in an annual funding agreement shall only be spent on specific programs listed in such funding agreement; prohibits Tribal Base funding from including other recurring funding within Tribal Priority Allocations; requires renegotiation or rejection of a previously executed Self-Governance Compact or Funding Agreement or a provision therein; prohibits a Self-Gov-

ernance Tribe/consortium from investing funds received under Self-Governance Compacts in a manner consistent with the "prudent investor" standard; requires any Self-Governance Tribe/consortium to adopt "conflict of interest" standards which differ from those previously adopted by its governing body; applies project-specific construction requirements to a tribal assumption of project design and other construction management services or of road construction activities involving more than one project; or fails to provide that "Inherent Federal functions" for purposes of the published regulations shall mean those Federal functions that cannot be legally transferred to a Self-Governance Tribe/consortium.

Mr. MCCAIN. I want to inquire of the chairman on one of these eight impasse issues. Is it your understanding that the Department would have the regulatory authority, in one of the objectionable regulatory provisions, to delete unilaterally certain provisions in the various Compacts of Self-Governance that the Department has signed with various tribal governments and that have existed as long as nine years? I thought we expressly indicated in 1994 when we gave permanent authority to the Tribal Self-Governance Demonstration program that these Compacts and Annual Funding Agreements are to be bilateral agreements reached on a government-to-government basis that cannot be unilaterally amended by the Department?

Mr. CAMPBELL. The Senator is correct. In 1994, the Congress received a series of complaints from Indian tribes that the Department was attempting to unilaterally amend agreements it had previously reached with Indian tribes who were assuming functions previously carried out by Federal officials. The Congress had to remind the Department in 1994 that it must treat the agreements it reached with Indian tribes as bilateral accords that cannot be amended except by mutual consent. Now, the Department is insisting on a regulation that would permit it to unilaterally revise agreements it had previously reached on a bilateral basis with individual Indian tribes. The American Indian and Alaska Native organizations find these and the remaining seven regulatory provisions objectionable, and I agree with them.

Mr. MCCAIN. I hope the Department will withdraw its proposals to regulate in each of these eight areas. The negotiated rulemaking process works best when it is based upon consensus, and in these eight instances the Department has failed to make its case for regulations.

Mr. INOUE. I thank my colleagues. I share their concerns. I am hopeful that in bringing affected parties together we can resolve these differences.

Mr. CAMPBELL. I thank the Senator and will work with him on this issue in the days and weeks ahead.